

179606

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SCOTT ELLIOTT

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May 22, 2006

VIA HAND

Charles L. A. Terreni, Esquire  
Chief Clerk and Administrator  
South Carolina Public Service Commission  
101 Executive Center Drive  
Columbia, SC 29210

2006-125-S

RE: Application of Midlands Utility, Inc. Requesting Approval of a Contract for the Transfer and Sale of Certain of Its Sewerage Collection Systems within Lexington County, South Carolina to the City of Cayce

Dear Mr. Terreni:

Enclosed please find for filing 11 copies of the Schedules for attachment to the Application of Midlands Utility, Inc. Requesting Approval of a Contract for the Transfer and Sale of Certain of Its Sewerage Collection Systems within Lexington County, South Carolina to the City of Cayce. Also enclosed is a Certificate of Service on the Office of Regulatory Staff in the above matter. I have enclosed an extra copy of each of these, which I would ask you to date stamp and return to me in the self-addressed stamped envelope enclosed for your convenience.

Please do not hesitate to contact me, if you have any questions or if I may provide you with any additional information.

Sincerely,

ELLIOTT & ELLIOTT, P.A.



Scott Elliott

SE/jcl

Enclosures

cc: Wendy B. Cartledge, Esq. w/enc.

# CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that she has served below listed parties with a copy of the pleadings indicated below by mailing a copy of same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

**RE:** Application of Midlands Utility, Inc., Requesting Approval  
of a Contract for the Transfer and Sale of Certain of Its  
Sewerage Collection Systems within Lexington County,  
South Carolina to the City of Cayce.

Docket No.: 2006-125-S

PARTIES SERVED:

Wendy B. Cartledge, Esquire  
ORS  
P. O. Box 11263  
Columbia, SC 29211

PLEADINGS:	Schedules
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~~Jackie C. Livingston, Paralegal~~

May 22, 2006

## SCHEDULES

Schedule 2.1	Transferred Systems
Schedule 2.4	NPDES Permit and SCDHEC Consent Order
Schedule 3.2	Consents and Approvals
Schedule 3.3	Violations
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Schedule 3.12	Sewerage System Map
Schedule 5.10	Existing Legal Actions to be Dismissed

SO  
Office  
2006 JUN 22 PM 3:24

Initials  
Buyer  
Seller

## Schedule 2.1

### Transferred Systems

All of Seller's right, title and interest in and to the following Seller's Transferred Systems (specifically excluding any treatment facilities) subject to the As-Is Conditions provisions of the Agreement, specifically including the following:

**A. Bellemeade Subdivision:** Identified as "A" on the Sewerage System Map

The entire sewerage collection system of the BELLEMEADE SUBDIVISION in Lexington County, including all pumps, pipes, manholes, valves, controls and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved, which specifically includes, a 50'x50' pump station site to be selected from the existing 1.25 acre treatment plant lot described in plat prepared of Midlands Utility, Inc., by Carolina Surveying Services, Inc., dated November 11, 2003; Project 2003273. (This conveyance specifically excludes the lagoon treatment facility.)

**B. PITT Stop & Maggie Mays Restaurant:** Identified as "B" on the Sewerage System Map



The entire sewerage collection system of the PITT Stop and, Maggie Mays Restaurant in Lexington County, including all pumps, pipes, manholes, valves, controls and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved, which specifically includes the 3" force main located on SC DOT right-of-way. Beginning at a manhole on Miranda Road intersecting Charleston Highway, then turning southeast along Charleston highway then turning North onto Rolling Meadows Lane. The force main is located and identified by record drawings by HPG & Company "sewer service to Cheap O's Truck Plaza." Project No. 97065 dated October 1997.

**C. Charwood Subdivision:** Identified as "C" on the Sewerage System Map

The entire sewerage collection system of the CHARWOOD SUBDIVISION in Lexington County, including all pumps, pipes, manholes, valves, controls, and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved. The Charwood force main begins near the intersection of Sawgrass Court and Bachman Road, turns northwest along Bachman Road, thence northeast along Fish Hatchery Road and terminating at the Arborgate pump station. Together with individual pump station for condominiums on Bachman Road into 4" force main.

**D. Sawgrass Hiltons:** Identified as "D" on the Sewerage System Map

The entire sewerage collection system of the SAWGRASS HILTONS in Lexington County, including all pumps, pipes, manholes, valves, controls, and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved.

Initials  
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 Seller

**E. Rockford Place:**

Identified as "E" on the Sewerage System Map

The entire sewerage collection system of the ROCKFORD PLACE SUBDIVISION in Lexington County, including all pumps, pipes, manholes, valves, controls and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved. The entire sewage system of the Rockford Place subdivision in Pine Ridge in Lexington County is shown on record drawings by U.S. Group, Job No. 94307, dated 7/22/95 and U.S. Group Job No. 97399-54 dated 5/20/97.

**F. Parkwood Subdivision:**

Identified as "F" on the Sewerage System Map



The entire sewerage collection system of the PARKWOOD SUBDIVISION in Lexington County, including all pumps, pipes, manholes, valves, controls, and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved. The following sewer sub-systems are served by Parkwood Subdivision sewer system and are also owned by Midlands Utility Inc.

1. Mills Corner - Area near the intersection of Oak Drive and US Highway NO. 1 in Lexington County in the Oak Grove Community. Site consists of a Piggly Wiggly Store and a commercial strip mall. As shown on Record Drawings by Chao & Associates. Project No. 391624 date 1995.
2. Kentucky Fried Chicken, Area along the South Side of US No. 1 in the Oak Grove Community of Lexington County. This project also includes an eight-inch main crossing to the North side of US No.1 serving the No.1 Truck Sales parcel. As shown on site construction plans for KFC Restaurant Sylvan Food systems dated July 1996 by W.K. Dickson project No. 96565.30.
3. Congaree Home Center, formerly US Route 1 M/H sales office. Located on the South side of US No.1 near Dickeret Drive. As shown on Plans by V&K Design Group, Inc.
4. Kenny Blake Property (warehouses) connects to Mills Corner. As shown on Record drawings by HPG & Company. Project No. 98094.
5. Gordon L. Amick MHP, 10 REU. MHP owns lines inside MHP; Wastewater is delivered to Parkwood Pump Station.
6. Flow is also received from Johnny's Bar which is located adjacent and East of Mills Corner on US Highway No.1.

**G. Timberland Subdivision:**

Identified as "G" on the Sewerage System Map

The entire sewerage collection system of the TIMBERLAND RESIDENTIAL AND COMMERCIAL SUBDIVISION in Lexington County, including all pumps, pipes, manholes, valves, controls, and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved, as shown on "Overall Sanitary Sewer Plan" by Power Engineering Co. dated 6/4/01, Job No. 2333, and Timbermill Drive commercial subdivision includes Frank's Carwash, Rick Jackson DDS Office.

Initials  
Buyer  Seller 

**H. Montclair Subdivision:**

Identified as "H" on the Sewerage System Map

The entire sewerage collection system of the MONTCLAIRE SUBDIVISION in Lexington County, including all pumps, pipes, manholes, valves controls, and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved, as shown on sanitary sewer Record Drawings by Surveying & Mapping Service dated 11/29/95, Job No. 95022.

**I. New Hope:**

Identified as "I" on the Sewerage System Map

The entire sewerage collection system of the NEW HOPE SUBDIVISION in Lexington County, including all pumps, pipes, manholes, valves, controls, and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved. Located at intersection of Ermine Road and Delree Street near West Columbia. In Lexington County, as shown on plans from Power Engineering Job No. 1165 dated 7/6/94, EXCLUDING the lateral lines to the buildings.

**J. Westgate Subdivision:**

Identified as "J" on the Sewerage System Map

The entire sewerage collection system of the WESTGATE SUBDIVISION in Lexington County, including all pumps, pipes, manholes, valves, controls, and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved.

**K. Stonewood Subdivision:**

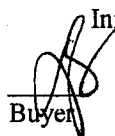

Identified as "K" on the Sewerage System Map

The entire sewerage collection system of the STONEWOOD SUBDIVISION in Lexington County, including all pumps, pipes, manholes, valves, controls, and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved, as shown on record drawings by Civil Engineering of Columbia, as job No. 91109 dated 1/11/93.

**L. Darby Place Subdivision:**

Identified as "C" on the Sewerage System Map

The entire sewerage collection system of the DARBY PLACE SUBDIVISION in Lexington County, including all pumps, pipes, manholes, valves, controls, and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved, as shown on record drawings by Cox & Dinkins, Project No. 0107, date 6/1/87, including, a 0.35 acre pump station site and easements as shown on a plat for Richard P. Conly, Jr. by Site Consultants, Drawing No. D85-102 dated 11/20/86 and deeded to Midlands Utility, Inc.

Initials  
 Buyer  
 Seller

**M. Foxglen Subdivision:**

Identified as "M" on the Sewerage System Map

The entire sewerage collection system of the FOXGLEN SUBDIVISION in Lexington County, including all pumps, pipes, manholes, valves, controls, and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved, as shown on recording drawings by Site Consultants, Drawing No. 90746 dated 3/12/92, including, a sewer main extension to serve a portion of homes located on Stockman Drive, located off of South Woodside Parkway, as shown on "Sanitary Sewer Extension to Serve a Portion of Stockman Drive"; Record Drawings, by Midlands Utility, Inc. dated 8/20/93.

**N. Six Mile Creek:**

The entire sewerage collection system of the SIX MILE CREEK INTERCEPTOR in Lexington County, including all pumps, pipes, manholes, valves, controls, and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved, as shown on Phase I & II Record Drawings by Midlands Utility, Phase I & II describe project. DHEC Permit 14,782 dated 2/1990. The following are served by Six Mile Creek Interceptor Gravity Sewer Phase I & II:

1. Jim Judy Sewer Main – Located on South side of US No. 1 Between I-26 and the Six Mile Creek. Described by Midlands Utility/DHEC Permit 18,213-DW
2. Applebee's connected to above sewer main and extended the sewer. Shown on Record Drawings by Hussey, Gay, Bell & DeYong. Job No. 301038114E dated 4/29/02.
3. Lexington Recreation Commission- Project is located off of Methodist Park Road in Lexington County. Serves the Restrooms at the ball Park. Identified by DHEC Permit 18,688 DW. Record Drawings by Midlands Utility.
4. Agape House – located on the South side of Leaphart Road near I-26 in Lexington County. System is described by "Record Drawing by Midlands Utility date 2/21/91". Terminates near Agape Drive and Leaphart Road.
5. Henwood S/D- Located behind Hendrix Mobile Home Park off of Leaphart Road. Record Drawings by Palmetto Company. SL Permit #16849 dated 8/6/90.
6. Hendrix MHP – do not own system but receives flow. EXCLUDES lateral lines or mobile homes on site.
7. Quinton Commons Subdivision- Located near the intersection of Methodist Park Road and Romell Street near West Columbia in Lexington County. Described by Record Drawings by HB engineering dated 1/14/03. Project No. 01134
8. Old Lowe's sewer on North side of U.S. No. 1 between the Six Mile Creek and Interstate I-26 in Lexington County. Popeye's Chicken, Carolina Pottery and West Columbia Chiropractic are presently connected to this main. Described by Record Drawings by Midlands Utility dated 1/27/92, DHEC Permit No. 17.314 DW.

9. Bruno's Sewer Main (now occupied by Recreation Factory Outlet). Project connected to the termination of Old Lowe's sewer main described above and extends to a point near the building. As shown on Record Drawings by Civil Engineering of Columbia, Job No. 92066.

10. Sewer Extension to serve U-Haul International. Project connected to the termination of the Bruno's sewer main described above and extends to a point East of the intersection of Woodside Parkway and Orchard Drive in Lexington County. As shown on Record Drawings by Power Engineering, Job No. 0876 dated 12/2/93.

11. Sewer service to Oswalt's Mobile Park. Located on Youth Drive off of Methodist Park Road near West Columbia in Lexington County. Midlands does not own or operate these internal mains or services.

**O. Six Mile Creek Interceptor Phase III:**

Project begins at station 22 + 14.02 of Six Mile Creek Interceptor Phase I & II and extends 15" sewer for a distance of 792.86 feet with 4 MH to a location near Methodist Park Road; then extending with 12" sewer for a distance of 2,947.16 feet with 15 MH; terminating at the McGregor Downs Mobile Home Park, as show on Record Drawings by Midlands Utility, Six Mile Creek Interceptor, Phase III dated 3/18/92.

1. Sewer is collected from McGregor Downs MHP and Lazy Pines Mobile Home Parks. EXCLUDES internal mains or individual service in these mobile home parks.

2. Sewer Main for two customers Jim Judy and Robert Peele. Beginning at approximate station 28+04 of Six Mile Cree interceptor and extending South, across U.S. Hwy. No.1 near the current Congaree Home Center. Described on Record Drawings by V&K Design Group, File No. 9614 dated July 18, 96.

3. Hess Station line beginning at approximate 9+25 of Six Mile Creek interceptor, Phase III, and extending South and ending near U.S.1 and Methodist Park Road. Described in Record Drawings by Windmill Engineering Solutions, Inc. dated June 2001, project No. SC-009.

4. Woodberry Plaza connection. Beginning at approximate Station of 36+00 of Six Mile Creek interceptor, Phase III, ending at the Woodbury Plaza. Described in Record Drawings by Cox and Dinkins, Inc., dated 2/10/93, project No. 0350.



5. Woodberry Partners sewer extension beginning at approximate station of 35+00 of Six Mile Creek interceptor, Phase III and extending South across creek and terminating on Edens Woodberry Partners 88 property. A six-inch service main connected to the terminating manhole is property of Edens Woodberry Partners 88 property. Sewer main services Super Suds, Carwash and Wendy's restaurant. Described on Record Drawings by Cox & Dinkins, Inc., dated 1/18/96, project No. 0350A.

Seller owns and maintains only the 8" main and manholes.

**P. Arborgate Subdivision:**

Identified as "D" on the Sewerage System Map

The entire sewerage collection system of the ARBORGATE SUBDIVISION in Lexington County, including all pumps, pipes, manholes, valves, controls, and connections used in connection with

Initials  
 Buyer  
 Seller



the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved, including the 6" force main is located on SC DOT right-of-way of Fish Hatchery Road then turning north along SCE&G right-of-way until connection with the city of Cayce system at McQueen Street and the Extension to serve South Carolina National Guard Armory (as to Pine Ridge Armory) as shown on record drawings by Landtech, Inc., Job No. 9227 date 10/8/93.

**Q. Mallard Trace Subdivision:**

Identified as "E" on the Sewerage System Map

The entire sewerage collection system of the MALLARD TRACE SUBDIVISION in Lexington County, including all pumps, pipes, manholes, valves, controls, and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved, as shown on record drawings No. D-86-231 dated 7/26/88 by Site Consultants.

**R. Harvest Glen (U.S. Highway 1 System):**



The entire sewerage collection system of the HARVEST GLEN (U.S. Highway 1 System) in Lexington County, including all pumps, pipes, manholes, valves, controls, and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved.

**S. Spring Hill Patio Homes (Pineridge System):**

The entire sewerage collection system of the SPRING HILL PATIO HOMES (Pineridge System) in Lexington County, including all pumps, pipes, manholes, valves, controls, and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved.

**T. Belmont Estates:**

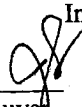

The entire sewerage collection system of the BELMONT ESTATES in Lexington County, a subdivision currently under development by Dale Ness, including all pumps, pipes, manholes, valves, controls, and connections used in connection with the operation of such sewerage system, all easements, rights-of-way, together with the rights of access, ingress and egress for the installation, maintenance and operation of such system in those areas over which utilities easements have been reserved. This system will also serve several commercial properties including Total Comfort.

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**Schedule 2.4**

**NPDES Permit and SCDHEC Consent Order  
and Closeout of Wastewater Treatment Systems**

[see attached]

	Initials
	
Buyer	Seller

BOARD:  
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Chairman  
Edwin H. Cooper, III  
Vice Chairman  
L. Michael Blackmon  
Secretary



C. Earl Hunter, Commissioner  
*Promoting and protecting the health of the public and the environment.*

September 20, 2005

BOARD:  
Carl L. Brannell  
Steven G. Kline  
Paul C. Aughey, III  
Coleman F. Buckhouse, MD

Mr. Charles Cook  
Elliott and Elliott  
721 Olive Street  
Columbia, SC 29205

RE: PSC Information  
DHEC Wastewater Discharge Permit


Dear Mr. Cook:

This letter serves to confirm that the following system has a valid permit to operate from DHEC.

Bellemeade S/D WWTP SC0030988

I can be reached at 803-898-4157 or at debessjp@dhec.sc.gov.

Sincerely,



Jeffrey P. deBessonet, P.E., Director  
Water Facilities Permitting Division

cc: Keith Parnell, Midlands Utilities

## BOARD:

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Vice ChairmanL. Michael Blackmon  
Secretary

C. Earl Hunter, Commissioner

*Promoting and protecting the health of the public and the environment.*

## BOARD:

Carl L. Brazell

Steven G. Kisner

Paul C. Aughtry, III

Coleman F. Buckhouse, MD

August 17, 2005

Keith Parnell, President  
Midland Utility Company.  
Post Office Box 887  
Lexington SC 29071

RE: NPDES permit SC0030988: Bellemeade Subdivision, Lexington County

Dear Mr. Parnell:

This office received this February an application package for renewing the above discharge permit and the receipt was acknowledged by our letter dated February 11th.

The permit was originally issued for a period of less than five years. We have determined that an extension of the current expiration date is appropriate in this situation.

Consequently, the existing permit is being extended by one (1) year instead of being revoked & reissued for a period of five years; i.e., the permit that will be placed on public notice will be same as the existing permit except for the cover page that defines the expiration date.

Please feel free to contact Mr. Murali Koppa at 803 / 898-4220 with any related questions.

Sincerely,

Michael J. Montebello, Manager  
Domestic Wastewater Permitting Section  
Water Facilities Permitting Division

mck

cc: Region 3 EQC Columbia Office (w/ attachment)  
Murali Koppa, BoW  
Jeffrey deBessonnet, BoW  
Central Midlands Council of Governments(w/ attachment)  
BoW Enforcement (w/ attachment)  
NPDES Administration, BoW

Attachment: Cover page only of above NPDES permit

# Surface Water Discharge Permit

In Accordance With the  
National Pollutant Discharge Elimination System (NPDES)

## This NPDES Permit Certifies That

**MIDLANDS UTILITY  
BELLEMEADE SUBDIVISION**

has been granted permission to discharge treated wastewater from a facility located at

***on Nikon Circle off Minolta off Highway #21 south, one block  
south of the intersection of Highways #321 and #21 in  
Lexington County***

to receiving waters named

ditch to Dry Creek to Congaree River

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, III, IV and V hereof. This permit is issued in accordance with the provisions of the Pollution Control Act of South Carolina (S.C. Code Sections 48-1-10 et seq., 1976), Regulation 61-9 and with the provisions of the Federal Clean Water Act (PL 92-500), as amended, 33 U.S.C. 1251 et seq., the "Act."

\_\_\_\_\_  
**Jeffrey P. deBessonnet, P.E., Director  
Water Facilities Permitting Division  
Bureau of Water**

**Issued:**

**Expires: September 30, 2005**

**Effective:**

**Permit No.: SC0030988**



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## **PART I. Definitions**

Any term not defined in this Part has the definition stated in the Pollution Control Act or in "Water Pollution Control Permits", R.61-9 or its normal meaning.

- A. The "Act", or CWA shall refer to the Clean Water Act (Formerly referred to as the Federal Water Pollution Control Act) Public Law 92-500, as amended.
- B. The "arithmetic mean" of any set of values is the summation of the individual values divided by the number of individual values.
- C. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
- D. A "composite sample" shall be defined as one of the following four types:
  - 1. An influent or effluent portion collected continuously over a specified period of time at a rate proportional to the flow.
  - 2. A combination of not less than 8 influent or effluent grab samples collected at regular (equal) intervals over a specified period of time and composited by increasing the volume of each aliquot in proportion to flow. If continuous flow measurement is not used to composite in proportion to flow, the following method will be used: An instantaneous flow measurement should be taken each time a grab sample is collected. At the end of the sampling period, the instantaneous flow measurements should be summed to obtain a total flow. The instantaneous flow measurement can then be divided by the total flow to determine the percentage of each grab sample to be combined. These combined samples form the composite sample.
  - 3. A combination of not less than 8 influent or effluent grab samples of equal volume but at variable time intervals that are inversely proportional to the volume of the flow. In other words, the time interval between aliquots is reduced as the volume of flow increases.
  - 4. If the effluent flow varies by less than 15 percent, a combination of not less than 8 influent or effluent grab samples of constant (equal) volume collected at regular (equal) time intervals over a specified period of time.

All samples shall be properly preserved in accordance with Part II.J.4. Continuous flow or the sum of instantaneous flows measured and averaged for the specified compositing time period shall be used with composite results to calculate mass.

- E. "Daily maximum" is the highest average value recorded of samples collected on any single day during the calendar month.
- F. "Daily minimum" is the lowest average value recorded of samples collected on any single day during the calendar month.
- G. The "Department" shall refer to the South Carolina Department of Health and Environmental Control.
- H. The "geometric mean" of any set of values is the  $N^{\text{th}}$  root of the product of the individual values where N is equal to the number of individual values. The geometric mean is equivalent to the antilog of the

arithmetic mean of the logarithms of the individual values. For purposes of calculating the geometric mean, values of zero (0) shall be considered to be one (1).

- I. A "grab sample" is an individual, discrete or single influent or effluent portion of at least 100 milliliters collected at a time representative of the discharge and over a period not exceeding 15 minutes and retained separately for analysis. Instantaneous flow measured at the time of grab sample collection shall be used to calculate quantity, unless a totalizer is used.
- J. The "instantaneous maximum or minimum" is the highest or lowest value recorded of all samples collected during the calendar month.
- K. The "monthly average", other than for fecal coliform, is the arithmetic mean of all samples collected in a calendar month period. The monthly average for fecal coliform bacteria is the geometric mean of all samples collected in a calendar month period. The monthly average loading is the arithmetic average of all individual loading determinations made during the month.
- L. "POTW" means publicly owned treatment works. Publicly owned treatment works means any device or system used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature which is owned and operated by the State, a municipality, or a regional entity composed of two (2) or more municipalities or parts thereof. The term also means the municipality as defined in section 502(4) of CWA, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.
- M. "Practical Quantitation Limit (PQL)" is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. It is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method-specific sample weights, volumes, and processing steps have been followed.
- N. "Privately owned treatment works" means any device or system which both is used to treat wastes from any facility whose operator is not the operator of the treatment works and is not a POTW.
- O. "Quarter" is defined as the first three calendar months beginning with the month that this permit becomes effective and each group of three calendar months thereafter.
- P. "Quarterly average" is the arithmetic mean of all samples collected in a quarter.
- Q. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- R. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.



- S. "Weekly average", other than for fecal coliform, is the arithmetic mean of all the samples collected during a one-week period. The weekly average for fecal coliform is the geometric mean of all samples collected during a one-week period. For self-monitoring purposes, weekly periods in a calendar month are defined as three (3) consecutive seven day intervals starting with the first day of the calendar month and a fourth interval containing seven (7) days plus those days beyond the 28<sup>th</sup> day in a calendar month. The value to be reported is the single highest of the four (4) weekly averages computed during a calendar month. The weekly average loading is the arithmetic average of all individual loading determinations made during the week.
- T. "24 Hour Time Composite Sample" A combination of not less than eight (8) influent or effluent grab samples of equal volume collected at regular time intervals over a 24 hour period and properly preserved, (See part II.J.4.).

## **PART II. Standard Conditions**

### **A. Duty to comply**

The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Clean Water Act and the Pollution Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

1. a. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
- b. It is the responsibility of the permittee to have a treatment facility that will meet the final effluent limitations of this permit. The approval of plans and specifications by the Department does not relieve the permittee of responsibility for compliance.
2. Failure to comply with permit conditions or the provisions of this permit may subject the permittee to civil penalties under S.C. Code Section 48-1-330 or criminal sanctions under S.C. Code Section 48-1-320. Sanctions for violations of the Federal Clean Water Act may be imposed in accordance with the provisions of 40 CFR Part 122.41(a)(2) and (3).
3. A person who violates any provision of this permit, a term, condition or schedule of compliance contained within this NPDES permit, or the State law is subject to the actions defined in the State law.

### **B. Duty to reapply**

1. If a POTW as defined in Part I.L, wishes to continue an activity regulated by this permit after the expiration date of this permit, the POTW must apply for and obtain a new permit. A POTW with a currently effective permit shall submit a new application at least 180 days before the existing permit expires, unless permission for a later date has been granted by the Department. The Department may not grant permission for applications to be submitted later than the expiration date of the existing permit.
2. If a privately owned treatment works as defined in Part I.N, wishes to continue an activity regulated by this permit after the expiration date of this permit, the privately owned treatment works must apply for and obtain a new permit. A privately owned treatment works with a currently effective permit shall submit a new application 180 days before the existing permit expires, unless permission for a later date has been granted by the Department. The Department may not grant permission for applications to be submitted later than the expiration date of the existing permit.

### **C. Need to halt or reduce activity not a defense**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

### **D. Duty to mitigate**

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper operation and maintenance

1. The permittee shall at all times properly operate and maintain in good working order and operate as efficiently as possible all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes effective performance based on design facility removals, adequate funding, adequate operator staffing and training and also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Power Failures.

In order to maintain compliance with effluent limitations and prohibitions of this permit, the permittee shall either:

- a. provide an alternative power source sufficient to operate the wastewater control facilities;
  - b. or have a plan of operation which will halt, reduce, or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.
3. The permittee shall maintain at the permitted facility a complete Operations and Maintenance Manual for the waste treatment plant and land application system. The manual shall be made available for on-site review during normal working hours. The manual shall contain operation and maintenance instructions for all equipment and appurtenances associated with the waste treatment plant and land application system. The manual shall contain a general description of the treatment process(es), operating characteristics that will produce maximum treatment efficiency and corrective action to be taken should operating difficulties be encountered.
  4. The permittee shall provide for the performance of daily treatment plant inspections by a certified operator of the appropriate grade as specified in Part V. The inspection shall include, but is not limited to, areas which require a visual observation to determine efficient operations and for which immediate corrective measures can be taken using the O & M manual as a guide. All inspections shall be recorded and shall include the date, time and name of the person making the inspection, corrective measures taken, and routine equipment maintenance, repair, or replacement performed. The permittee shall maintain all records of inspections at the permitted facility as required by this permit. Records shall be made available for on-site review during normal working hours.
  5. The name and grade of the operator of record shall be submitted to DHEC/Bureau of Water/Water Enforcement Division prior to placing the facility into operation. A roster of operators associated with the facility's operation and their certification grades shall also be submitted with the name of the "operator-in-charge". Any changes in operator or operators shall be submitted to the Department as they occur.

**F. Permit actions**

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**G. Property rights**

This permit does not convey any property rights of any sort, or any exclusive privilege nor does it authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

**H. Duty to provide information**

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

**I. Inspection and entry**

The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the Department), upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and Pollution Control Act, any substances or parameters at any location.

**J. Monitoring and records**

1. a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be present and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated and maintained to ensure that the accuracy of the measurements are consistent with the accepted capability of that type of device.

Devices selected shall be capable of measuring flows with a maximum deviation of less than  $\pm 10\%$  from the true discharge rates throughout the range of expected discharge volumes. The primary flow device must be accessible to the use of a continuous flow recorder.

- c. The permittee shall maintain at the permitted facility a record of the method(s) used in measuring the discharge flow for the outfall(s) designated on limits pages to monitor flow. Records of any necessary calibrations must also be kept. This information shall be made available for on-site review by Department personnel during normal working hours.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by R.61-9.503 or R.61-9.504), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
3. Records of monitoring information shall include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The individual(s) who performed the sampling or measurements;
  - c. The date(s) analyses were performed;
  - d. The individual(s) who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of such analyses.
4.
  - a. Monitoring results for wastewater must be conducted according to test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in R.61-9.503 or R.61-9.504, unless other test procedures have been specified in the permit.
  - b. Unless addressed elsewhere in this permit, the permittee shall use a sufficiently sensitive analytical method that achieves a value below the derived permit limit stated in Part III. If more than one method of analysis is approved for use, the Department recommends for reasonable potential determinations that the permittee use the method having the lowest practical quantitation limit (PQL) unless otherwise specified in Part V of the permit. For the purposes of reporting analytical data on the Discharge Monitoring Report (DMR):
    - (1) Analytical results below the PQL from methods available in 40 CFR 136 or otherwise specified in the permit shall be reported as zero (0). Zero (0) shall also be used to average results which are below the PQL. When zero (0) is reported or used to average results, the permittee shall report, in the "Comment Section" or in an attachment to the DMR, the analytical method used, the PQL achieved, and the number of times results below the PQL were reported as zero (0).

- (2) Analytical results above the PQL from methods available in 40 CFR 136 or otherwise specified in the permit shall be reported as the value achieved. When averaging results using a value containing a < the average shall be calculated using the value and reported as < the average of all results collected.
  - (3) Mass values shall be calculated using the flow taken at the time of the sample and either the concentration value actually achieved or the value as determined from the procedures in (1) or (2) above, as appropriate.
5. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

K. Signatory requirement

- 1. All applications, reports, or information submitted to the Department shall be signed and certified.
  - a. Applications. All permit applications shall be signed as follows:
    - (1) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
      - (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
      - (b) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
    - (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
    - (3) For a municipality, State, Federal, or other public agency or public facility: By either a principal executive officer, mayor, or other duly authorized employee or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
      - (a) The chief executive officer of the agency, or
      - (b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator, Region IV, EPA).
  - b. All reports required by permits, and other information requested by the Department, shall be signed by a person described in Part II.K.1.a of this section, or by a duly authorized representative of that person. A person is a duly authorized representative if:

(1) The authorization is made in writing by a person described in Part II.K.1.a of this section;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,

(3) The written authorization is submitted to the Department.

c. Changes to authorization. If an authorization under Part II.K.1.b of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II.K.1.b of this section must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Certification. Any person signing a document under Part II.K.1.a or b of this section shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

#### L. Reporting requirements

##### 1. Planned changes

The permittee shall give written notice to DHEC/Bureau of Water/Water Facilities Permitting Division as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in R 61-9.122.29(b); or

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Part II.L.8 of this section.

c. The alteration or addition results in a significant change in the permittee's sewage sludge or

industrial sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan (included in the NPDES permit directly or by reference);

## 2. Anticipated noncompliance

The permittee shall give advance notice to DHEC/Bureau of Water/Water Enforcement Division of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

## 3. Transfers

This permit is not transferable to any person except after written notice to DHEC/Bureau of Water/NPDES Administration Section. The Department may require modification or revocation and reissuance of the permit to change the name of permittee and incorporate such other requirements as may be necessary under the Pollution Control Act and the Clean Water Act.

- a. Transfers by modification. Except as provided in paragraph b of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under R.61-9.122.62(e)(2)), or a minor modification made (under R.61-9.122.63(d)), to identify the new permittee and incorporate such other requirements as may be necessary under CWA.
- b. Other transfers. As an alternative to transfers under paragraph a of this section, any NPDES permit may be transferred to a new permittee if:
  - (1) The current permittee notifies the Department at least 30 days in advance of the proposed transfer date in Part II.L.3.b(2) of this section;
  - (2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
  - (3) Permits are non-transferable except with prior consent of the Department. A modification under this section is a minor modification which does not require public notice.

## 4. Monitoring reports

Monitoring results shall be reported at the intervals specified elsewhere in this permit.

- a. Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices including the following:
  - (1) Effluent Monitoring:

Effluent monitoring results obtained at the required frequency shall be reported on a Discharge Monitoring Report Form (EPA Form 3320-1). The DMR is due postmarked no later than the 28<sup>th</sup>



day of the month following the end of the monitoring period. One original and one copy of the Discharge Monitoring Reports (DMRs) shall be submitted to:

S.C. Department of Health and Environmental Control  
Bureau of Water/Compliance Assurance Division  
Permit and Data Administration Section  
2600 Bull Street  
Columbia, South Carolina 29201

(2) Groundwater Monitoring:

Groundwater monitoring results obtained at the required frequency shall be reported on a Groundwater Monitoring Report Form (DHEC 2110) postmarked no later than the 28<sup>th</sup> day of the month following the end of the monitoring period. One original and one copy of the Groundwater Monitoring Report Form (DHEC 2110) shall be submitted to:

S.C. Department of Health and Environmental Control  
Bureau of Water/Water Monitoring, Assessment and Protection Division  
Groundwater Quality Section  
2600 Bull Street  
Columbia, South Carolina 29201

(3) Sludge, Biosolids and/or Soil Monitoring:

Sludge, biosolids and/or soil monitoring results obtained at the required frequency shall be reported in a laboratory format postmarked no later than the 28<sup>th</sup> day of the month following the end of the monitoring period. Two copies of these results shall be submitted to:

S.C. Department of Health and Environmental Control  
Bureau of Water/Water Enforcement Division  
Water Pollution Enforcement Section  
2600 Bull Street  
Columbia, South Carolina 29201

(4) All other reports required by this permit shall be submitted at the frequency specified elsewhere in the permit to:

S.C. Department of Health and Environmental Control  
Bureau of Water/Water Enforcement Division  
Water Pollution Enforcement Section  
2600 Bull Street  
Columbia, South Carolina 29201

- b. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in R.61-9.503 or R.61-9.504, or as specified in the permit, all valid results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department. The permittee has sole responsibility for scheduling analyses, other than for the sample data specified in Part V,

so as to ensure there is sufficient opportunity to complete and report the required number of valid results for each monitoring period

- c. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.

5. Twenty-four hour reporting

- a. The permittee shall report any non-compliance, which may endanger health or the environment. Any information shall be provided orally to local DHEC office within 24 hours from the time the permittee becomes aware of the circumstances. During normal working hours call:

County	EQC District	Phone No.
Anderson Oconee	Appalachia I	864-260-5569
Greenville Pickens	Appalachia II	864-241-1090
Cherokee, Spartanburg Union	Appalachia III	864-596-3800
Chester, Lancaster York	Catawba	803-285-7461
Fairfield, Lexington Newberry, Richland	Central Midlands	803-896-0620
Beaufort, Colleton Hampton, Jasper	Low Country	843-846-1030
Aiken, Allendale, Bamberg, Barnwell, Calhoun, Orangeburg	Lower Savannah	803-641-7670
Chesterfield, Darlington, Dillon, Florence, Marion, Marlboro	Pee Dee	843-661-4825
Berkeley, Charleston Dorchester	Trident	843-740-1590
Abbeville, Edgefield, Greenwood Laurens, McCormick, Saluda	Upper Savannah	864-223-0333
Georgetown, Horry Williamsburg	Waccamaw	843-448-1902
Clarendon, Kershaw Lee, Sumter	Wateree	803-778-6548

After-hour reporting should be made to the 24-Hour Emergency Response telephone number 803-253-6488 or 1-888-481-0125 outside of the Columbia area. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances to the address in Part II.L.4.a(4). The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

- b. The following shall be included as information which must be reported within 24 hours under this paragraph.

(1) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See R.61-9.122.44(g)).

(2) Any upset which exceeds any effluent limitation in the permit.

(3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours (See R 61-9.122.44(g)).

c. The Department may waive the written report on a case-by-case basis for reports under Part II.L.5.b of this section if the oral report has been received within 24 hours.

6. Other noncompliance

The permittee shall report all instances of noncompliance not reported under Part II.L.4 and 5 of this section and Part IV at the time monitoring reports are submitted. The reports shall contain the information listed in Part II.L.5 of this section.

7. Other information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information to the Water Facilities Permitting Division/Bureau of Water. This information may result in permit modification, revocation and reissuance, or termination in accordance with Regulation 61-9.

8. Domestic treatment works

All permittees must provide adequate notice to the Department of the following:

a. Any new introduction of pollutants into the wastewater treatment facility (WWTF) from an indirect discharger which would be subject to sections 301 or 306 of CWA if it were directly discharging those pollutants; and

b. Any substantial change in the volume or character of pollutants being introduced into that WWTF by a source introducing pollutants into the WWTF at the time of issuance of the permit.

c. For purposes of this paragraph, adequate notice shall include information on:

(1) The quality and quantity of influent introduced into the WWTF, and

(2) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the WWTF.

M. Bypass

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II.M.2 and 3 of this section.

2. Notice.

- a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten days before the date of the bypass to DHEC/Bureau of Water/Water Facilities Permitting Division.
- b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II.L.5 of this section.

3. Prohibition of bypass

- a. Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part II.M.2 of this section.

- b. The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in Part II.M.3.a of this section.

N. Upset

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Part II.N.2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
  - b. The permitted facility was at the time being properly operated; and
  - c. The permittee submitted notice of the upset as required in Part II.L.5.b(2) of this section.
  - d. The permittee complied with any remedial measures required under Part II.D of this section.
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of

an upset has the burden of proof.

O. Misrepresentation of Information

1. Any person making application for a NPDES discharge permit or filing any record, report, or other document pursuant to a regulation of the Department, shall certify that all information contained in such document is true. All application facts certified to by the applicant shall be considered valid conditions of the permit issued pursuant to the application.
2. Any person who knowingly makes any false statement, representation, or certification in any application, record, report, or other documents filed with the Department pursuant to the State law, and the rules and regulations pursuant to that law, shall be deemed to have violated a permit condition and shall be subject to the penalties provided for pursuant to 48-1-320 or 48-1-330.

### Part III. Limitations and Monitoring Requirements

#### A. Effluent Limitations and Monitoring Requirements

1. **INTERIM LIMITS:** During the period beginning on the effective date of this permit and lasting through (either the elimination of the discharge, or until the second month after the date of completion of construction for facility upgrade), the permittee is authorized to discharge from outfall serial number 001. Such discharge shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS					MONITORING REQUIREMENTS		
	Pounds per Day		Other Units					
	Monthly Average	Weekly Average	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type	Sample Point
Flow	---	---	0.08 MGD	0.08 MGD	---	Daily	Continuous	Effluent
Biochemical Oxygen Demand - 5 Day (BOD <sub>5</sub> )	20	30	30 mg/l	45 mg/l	---	2/Month	24 Hour Composite	Effluent
Total Suspended Solids (TSS)	60	90	90 mg/l	135 mg/l	---	2/Month	24 Hour Composite	Effluent
Ammonia Nitrogen (NH <sub>3</sub> -N) Summer (Mar-Oct)	2	3	4.97 mg/l	7.46 mg/l	---	2/Month	24 Hour Composite	Effluent
Ammonia Nitrogen (NH <sub>3</sub> -N) Winter (Nov-Feb)	3	5	9.59 mg/l	14.39 mg/l	---	2/Month	24 Hour Composite	Effluent
Fecal Coliform	---	---	200/100 ml	---	400/100 ml	2/Month	Grab	Effluent
Total Residual Chlorine (TRC)*	---	---	0.025 mg/l	---	0.044 mg/l	2/Month	Grab	Effluent
Dissolved Oxygen (DO)	---	---	5.0 mg/l Minimum at all times			Daily	Grab	Effluent
pH	---	---	6.0 - 8.5 Standard Units			Daily	Grab	Effluent
Total Phosphorus*	---	---	MR mg/l	MR mg/l	---	1/Month	24 Hr. Comp.	Effluent
Total Nitrogen <sup>s</sup>	---	---	MR mg/l	MR mg/l	---	1/Month	Calculated	Effluent
Total Cadmium (Cd)*	---	---	MR mg/l	---	MR mg/l	1/Quarter	24 Hr. Comp.	Effluent
Total Copper (Cu)*	---	---	MR mg/l	---	MR mg/l	1/Quarter	24 Hr. Comp.	Effluent
Total Lead (Pb)*	---	---	MR mg/l	---	MR mg/l	1/Quarter	24 Hr. Comp.	Effluent

\* See Part V, Section G.5. for PQLs for these parameters.

§ This should be reported as a sum of TKN and Nitrate/Nitrite Nitrogen sampling. See Part V, Section G.5.

MR = Monitor & Report

2. **FINAL LIMITS:** During the period beginning on the first day of the second month after the date of completion of construction for facility upgrade, and lasting through the expiration date, the permittee is authorized to discharge from outfall serial number 001. Such discharge shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS						MONITORING REQUIREMENTS			
	Pounds per Day			Other Units			Measurement Frequency	Sample Type	Sample Point	
	Monthly Average	Weekly Average	Monthly Average	Weekly Average	Daily Maximum					
Flow	—	—	0.08 MGD	0.08 MGD	—		Daily	Continuous	Effluent	
Biochemical Oxygen Demand - 5 Day (BOD <sub>5</sub> )	20	30	30 mg/l	45 mg/l	—		2/Month	24 Hour Composite	Effluent	
Total Suspended Solids (TSS)	60	90	90 mg/l	135 mg/l	—		2/Month	24 Hour Composite	Effluent	
Ammonia Nitrogen (NH <sub>3</sub> -N) Summer (Mar-Oct)	2	3	4.97 mg/l	7.46 mg/l	—		2/Month	24 Hour Composite	Effluent	
Ammonia Nitrogen (NH <sub>3</sub> -N) Winter (Nov-Feb)	3	5	9.59 mg/l	14.39 mg/l	—		2/Month	24 Hour Composite	Effluent	
Fecal Coliform	—	—	200/100 ml	—	400/100 ml		2/Month	Grab	Effluent	
Total Residual Chlorine (TRC)*	—	—	0.025 mg/l	—	0.044 mg/l		2/Month	Grab	Effluent	
Dissolved Oxygen (DO)	—	—	5.0 mg/l Minimum at all times				Daily	Grab	Effluent	
pH	—	—	6.0 - 8.5 Standard Units				Daily	Grab	Effluent	
Total Phosphorus*	—	—	MR mg/l	MR mg/l	—		1/Month	24 Hr. Comp.	Effluent	
Total Nitrogen <sup>§</sup>	—	—	MR mg/l	MR mg/l	—		1/Month	Calculated	Effluent	
Total Cadmium (Cd)*	—	—	MR mg/l	—	MR mg/l		1/Quarter	24 Hr. Comp.	Effluent	
Total Copper (Cu)*	—	—	0.019 mg/l	—	0.025 mg/l		1/Quarter	24 Hr. Comp.	Effluent	
Total Lead (Pb)*	—	—	MR mg/l	—	MR mg/l		1/Quarter	24 Hr. Comp.	Effluent	

\* See Part V, Section G.5. for PQLs for these parameters.

§ This should be reported as a sum of TKN and Nitrate/Nitrite Nitrogen sampling. See Part V, Section G.5.

MR = Monitor & Report

**B. Whole Effluent Toxicity Limitations and Monitoring Requirements**

Not applicable to this permit.

**C. Groundwater Requirements**

Not applicable to this permit.

**D. Sludge Disposal Requirements**

If in the future the facility must dispose of sludge or solids, the Permittee must apply to the Bureau of Water for a sludge disposal permit and obtain written approval prior to actual removal of sludge.

**E. Land Application Requirements**

Not applicable to this permit.



## Part IV. Schedule of Compliance

### A. Schedule(s)

1. This facility is considered a temporary treatment facility. The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance with the following schedules:
  - a. Elimination: In accordance with the Area Wide 208 Water Quality Management Plan, since the regional sewerage system has been constructed that allows for tie-in.
    - i. On or before July 7, 2003, submit to the Public Service Commission (PSC) for approval a contract for sewer service.
    - ii. If the contract is approved by the PSC, within sixty (60) days of the PSC's final order, submit to the Department approvable plans and specifications and an application for a permit to construct addressing elimination of the discharge by connection to the regional sewer, including a plan for facility closure.
    - iii. Within forty-five (45) days of the issuance of the permit to construct, start construction on the connection to the regional sewer.
    - iv. Complete construction of the connection and divert influent wastewater to the regional system within one hundred twenty (120) days from the date of the start of construction.
    - v. Close out the WWTF in accordance with the approved closure plan within one hundred eighty (180) days from the date of diverting the influent wastewater to the regional system.
  - b. Upgrade: If the contract above is denied by the Public Service Commission (PSC),
    - i. Within sixty (60) days of the PSC's final order denying the contract, submit to the Department an approvable preliminary engineering report (PER) for facility upgrade.
    - ii. Submit approvable plans and specifications for facility upgrade and an application for a permit to construct within sixty (60) days of the Department's approval of the PER.
    - iii. Start construction for facility upgrade within ninety (90) days of the issuance of the permit to construct.
    - iv. Complete construction for facility upgrade within two hundred ten (210) days of the date of the start of construction.
    - v. Comply with the final effluent limits on the first day of the second month after the date of completion of construction for facility upgrade.
2. The permittee shall achieve compliance with the Whole Effluent Toxicity limitations specified for discharges in accordance with the following schedules:

Not applicable to this permit.

3. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each scheduled date

## Part V. Other Requirements

### A. Effluent Limitations and Monitoring Requirements

1. There shall be no discharge of floating solids or visible foam in other than trace amounts, nor shall the effluent cause a visible sheen on the receiving waters.
2. Samples taken in compliance with the monitoring requirements specified above, shall be taken at the following locations: nearest accessible point after final treatment but prior to actual discharge or mixing with the receiving waters.
3. Samples shall be collected in accordance with Part I.
4. MR = Monitor and Report only.
5.
  - a. If the monthly average concentration limits for BOD<sub>5</sub> and Total Suspended Solids (TSS) is less than or equal to 30 mg/l, then for BOD and TSS, the arithmetic mean of the values of the effluent shall not exceed 15 percent of the arithmetic mean of the values of the influent.
  - b. If the monthly average concentration limits for BOD<sub>5</sub> is less than or equal to 30 mg/l and the monthly average concentration for TSS is greater than 30 mg/l, then for BOD, the arithmetic mean of the values of the effluent shall not exceed 15 percent of the arithmetic mean of the values of the influent, and for TSS the arithmetic mean of the values of the effluent shall not exceed 35 percent of the arithmetic mean of the values of the influent.
  - c. If the monthly average concentration for BOD<sub>5</sub> is equal to 45 mg/l and the monthly average concentration for TSS is greater than 30 mg/l, then for BOD and TSS, the arithmetic mean of the values of the effluent shall not exceed 35 percent of the arithmetic mean of the values of the influent.

### B. Effluent Toxicity Limitations and Monitoring Requirements

#### 1. Acute Toxicity

Not applicable to this permit.

#### 2. Chronic Toxicity

Not applicable to this permit.

#### 3. Instream Macroinvertebrate Assessment

Not applicable to this permit.

### C. Groundwater Requirements

Not applicable to this permit.

### D. Sludge Disposal Requirements

#### 1. Sludge Use and Disposal

- a. The permittee shall comply with effluent standards and/or prohibitions established under Section 307(a) of the Clean Water Act (CWA) for toxic pollutants, standards for sludge use and disposal established in 40 CFR Parts 122, 123, 258, 501 and 503, under Section 405(d) of the CWA, and R.61-9.503 State Domestic Sludge Regulations, within the time provided in the regulations that establish these prohibitions or standards for sludge use or disposal, even if the NPDES permit has not yet been modified to incorporate the requirement.
- b. The Permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- c. This permit may be modified to address any standard for sludge use or disposal promulgated under Section 405(d) and Section 503 of the Clean Water Act and R.61-9.503 State Domestic Sludge Regulations or additional controls of a pollutant or practice not currently limited in this permit.
- d. It must be noted that 40 CFR Part 503 Standards for the Use or Disposal of Sewage Sludge, Federal Register Volume 58, No. 32, pages 9248 through 9415, dated February 19, 1993, is effective March 22, 1993, and R.61-9.503 State Domestic Sludge Regulations is effective June 28, 1996. Any sludge disposal permits issued by the Department will remain in effect and all conditions and requirements will apply; however, this does not relieve the permittee from complying with the conditions of 40 CFR Part 503 or State Regulation 61-9.503.
  1. Compliance with the standards (40 CFR Part 503 and R.61-9.503) shall be achieved as expeditiously as practicable, but in no case later than February 19, 1994.
  2. When compliance with the standard requires construction of new pollution control facilities, compliance with the standards (40 CFR Part 503 and R.61-9.503) shall be achieved as expeditiously as possible but in no case later than February 19, 1995.
  3. All other requirements for the frequency of monitoring, record keeping, and reporting identified in 40 CFR Part 503 or R.61-9.503, are effective on July 20, 1993.
  4. Class I sludge management facilities (includes but is not limited to all facilities with pretreatment programs, Publicly Owned Treatment Works (POTW) with a design flow rate equal to or greater than 1 Million gallons per day, and POTW's that serve 10,000 people or more) shall submit the following to EPA Region IV (USEPA Region IV, Clean Water Act Enforcement Section, Water Management Division, 61 Forsyth Street SW, Atlanta, GA 30303) with a duplicate copy to the Department:
    - a. The information in 40 CFR Part 503.17(a) except the information in §503.17(a)(3)(ii), 503.17(a)(4)(ii) and 503.17(a)(5)(ii), for the appropriate requirements on February 19 of each year.
    - b. The information in 40 CFR Part 503.17(a)(5)(ii)(A) through (a)(5)(ii)(G) on February 19 of each year when ninety (90) percent or more of any of the cumulative pollutant loading rates in Table 2 of §503.13 is reached at a site.

The requirements to send information to EPA Region IV will remain in effect until the State of South Carolina is delegated the sludge program under 40 CFR Part 123 or 40

CFR Part 501. The permittee is also required to send a copy of the information to the Department under the requirements of R.61-9.503.

- e. Until such time as a specific federal sludge disposal permit is issued under the provisions of 40 CFR Part 503, the direct enforceability (§503.3(b)) of the sludge standards requires that the permittee shall not use or dispose of sewage sludge through any practice for which requirements are established in 40 CFR Part 503, except in accordance with those requirements. If the Department includes State sludge permit requirements under R.61-9.503, the conditions of that permit shall apply in addition to any requirements under 40 CFR Part 503.
- f.
  - 1. The permittee must obtain prior Departmental approval of planned changes in the facility when the alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use of disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
  - 2. The sludge disposal permit may be modified or revoked and reissued if there are material and substantial alterations or additions to the permitted facility or activity (including a change or changes in the permittee's sludge use or disposal practice) which occurred after the permit issuance which justify the application of permit conditions which are different from or absent in the existing permit.
- g. The sludge disposal permit may be terminated if there is a change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit.
- h. Periodic inspections will be conducted by Department authorized representatives to ensure compliance with State regulations and permit stipulations. Any necessary modification to this permit may be based upon these evaluations.
- i. Records of monitoring required by the permits related to sludge use and disposal activities must be kept at least five (5) years (or longer as required by 40 CFR Part 503 or R.61-9.503).
- j. Sludge monitoring procedures shall be those specified in 1) R.61-9.503; 2) 40 CFR Part 503; 3) 40 CFR Part 136; or 4) other procedures specified in the sludge permit (in that order of "preference" depending on the availability and applicability of a particular method at the time the sludge permit is issued).
- k. The permittee must provide sludge monitoring results on a form(s) approved by the Department.
- l. The permittee shall submit the results of all sludge monitoring if done more frequently than required by the sludge permit. The permittee may be required to maintain specific records at the facility and on request may also be required to furnish them to the Department.
- m. The permittee should note that under 40 CFR 122.44(f), the "anti-backsliding" provision applies only to surface water dischargers. The "anti-backsliding" provision does not apply to sludge use and disposal activities.

E. Land Application

Not applicable to this permit.

F. Pretreatment

1. General Requirements

- a. All industrial users which discharge wastewater into the Permittee's system are required to comply with pretreatment provisions of the Act, as set forth in the General Pretreatment Regulations, 40 CFR Part 403, promulgated thereunder, the approved State Pretreatment Program (R.61-9.403), and the permittee's approved pretreatment program.
- b. This permit shall be modified, or alternatively revoked and reissued, to incorporate an approved POTW Pretreatment Program.
- c. Any application for authority to revise categorical pretreatment Standards to reflect POTW removal of pollutants in accordance with the requirements of 40 CFR 403.7 must be submitted to the Department at the time of application for POTW pretreatment program approval or at the time of permit expiration and reissuance thereafter.

2. Prohibited Discharges

The Permittee shall not allow discharge of pollutant(s) into its treatment works by any non-domestic source(s), if such pollutant(s) may inhibit or interfere with the operation or performance of the works. Further, the Permittee shall not allow introduction of the following pollutants into its treatment works:

- a. Pollutant(s) which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21.
- b. Pollutant(s) which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such discharges.
- c. Solid or viscous pollutant(s) in amounts which will cause obstruction to the flow in the POTW resulting in interference.
- d. Any pollutant, including oxygen demanding pollutants, (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
- e. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40°C (104°F) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits.
- f. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- g. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

h. Any trucked or hauled pollutants, except at discharge points designated by the POTW.

Upon development of specific limits for these pollutant categories, either in an approved POTW Pretreatment Program or otherwise, such limits shall be deemed prohibitions for the purpose of Section 307(d) of the Act and shall be enforceable in lieu of the general prohibitions set forth above.

G. Additional Operational Requirements

1. The wastewater treatment plant is assigned a classification of Group II-B (Biological) in the Permit to Construct which is issued by the Department. This classification corresponds to an operator with a grade of C.
2. The wastewater treatment plant is assigned a Reliability Classification of Class III, in accordance with Section 67.400 "Reliability Classifications" of the Standards for Wastewater Facility Construction: R.61-67.
3. The Permittee shall monitor all parameters consistent with conditions established by this Permit on the first (1<sup>st</sup>) Wednesday of every calendar month, unless otherwise approved by this Department. Additional monitoring, as necessary to meet the frequency requirements of this Permit (Part III.A., III.B., and III.C., if applicable) shall be performed by the Permittee.
4. Reserved.
5. The Water Quality-Based Effluent Limitations (WQBEL) for the parameters listed are not quantifiable using EPA-approved analytical methods. Therefore, the practical quantitation limit (PQL) using the analytical method stated below shall be considered as being in compliance with the limit provided appropriate biological monitoring requirements are incorporated into the permit.

For purposes of reporting, the Permittee shall use the reporting threshold equivalent to the PQL listed below and conduct analyses in accordance with the method specified below:

Parameter	Analytical Method	PQL
Total Cadmium	200.8, 200.9, or SM 3113B	0.00010 mg/l
Total Copper	200.7, 200.8, 200.9, or SM 3113B	0.010 mg/l
Total Lead	200.8, 200.9, or SM 3113B	0.0020 mg/l
Total Residual Chlorine	4500Cl B, C, D, F or G	0.050 mg/l
Total Kjeldahl Nitrogen §	351.1 or 351.2	0.100 mg/l
Nitrate-Nitrite as N §	353.2 or 353.3	0.020 mg/l
Total Phosphorus	365.1-365.4 or 3000	0.050 mg/l

§ Since there is no EPA accepted method to directly measure total nitrogen, total nitrogen should be reported as a sum of the values of TKN and Nitrate-Nitrite Nitrogen sampling.

The Permittee can however use another analytical method from a SCDHEC certified laboratory with PQL lower than the PQL listed above. If the permittee is using a PQL below the PQL listed above, then for purposes of reporting, the lower PQL shall be used in accordance with Part II.J.4.b.





BOARD:  
Elizabeth M. Ragland  
Chairman  
Edwin H. Cooper, III  
Vice Chairman  
L. Michael Blackmon  
Secretary



C. Ed Hunter, Commissioner  
*Promoting and protecting the health of the public and the environment.*

September 14, 2005

BOARD:  
Carl L. Bessell  
Steven G. Kiser  
Paul C. Anthony, III  
Coleman F. Baskette, MD

**Certified Mail - 7005 1160 0004 4163 0012**  
**Return receipt Requested**

Mr. Randy Mitchell  
Chairman  
Public Service Commission of South Carolina  
101 Executive Center Dr., Suite 100  
Columbia, SC 29210

RE: Midlands Utility, Inc.  
Docket NO. 2005-172S  
Order NO. 2005-479

Dear Mr. Mitchell:

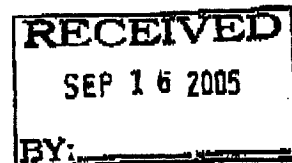
In response to the petition by Midlands Utility, Inc. to the Public Service Commission of South Carolina, the Department has completed its review of the Midlands Utility, Inc. enforcement files. Currently Midlands Utility, Inc. is in compliance with all of the Orders with the Department.

If you have any questions, please contact me at (803) 898-3820 or by e-mail at [richmond@dhec.sc.gov](mailto:richmond@dhec.sc.gov).

Sincerely,

Tom J. Richmond  
Water Enforcement Division  
Bureau of Water

cc: Charles K. Parnell, P.E., HPG and Company, Inc.



THE STATE OF SOUTH CAROLINA  
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

---

IN RE: MIDLANDS UTILITY, INC.  
BELLEMEADE SUBDIVISION  
LEXINGTON COUNTY

---

CONSENT ORDER  
03-044-W

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Midlands Utility, Inc. (Respondent) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) serving the residents in and contiguous to Bellemeade Subdivision and the Pitt Stop Truck Stop located in Lexington County, South Carolina.

The Respondent violated the Pollution Control Act, S.C. Code Ann. §§ 48-1-10 et seq. (1987 & Supp. 2002) and National Pollutant Discharge Elimination System (NPDES) Permit SC0030988 in that it exceeded the permitted discharge limits for ammonia-nitrogen (NH<sub>3</sub>-N), biochemical oxygen demand (BOD), dissolved oxygen (DO), fecal coliform bacteria (FC), pH and total residual chlorine (TRC), as specified in Part I.A.1 of the NPDES permit.

In accordance with approved procedures and based on discussion with the Respondent on March 27, 2003, the parties have agreed to the issuance of this Order to include the following Findings of Fact and Conclusions of Law.

In the interest of resolving this matter without delay and expense of litigation the Respondent agrees to the entry of this Consent Order, but neither agrees nor disagrees with the Findings of Fact or the Conclusions of Law; and therefore, agrees that this Order shall be deemed an admission of fact and law only as necessary for enforcement of this Order by the Department or subsequent actions relating to the Respondent by the Department.

FINDINGS OF FACT

1. NPDES Permit SC0030988 allows the Respondent to discharge treated wastewater to a ditch to Dry Creek to the Congaree River in accordance with the effluent limitations, monitoring requirements and other conditions set forth therein. The permit expired September 30, 2000. The permit was not reissued due to the designation of the WWTF for elimination by the area-wide 208 plan.
2. Since the expiration of the permit, the Respondent has continued to submit monthly discharge monitoring reports (DMRs) and annual NPDES permitting fees to the Department and otherwise treated the expired permit as continuing to be in effect. The Department has accepted these DMRs and permitting fees.
3. Department staff performed a Compliance Sampling Inspection (CSI) at the Respondent's WWTF on October 8, 2001. Department staff rated the WWTF noncompliant as a result of violations of the permitted discharge limits for  $\text{NH}_3\text{-N}$ , FC and pH.
4. Department staff performed a CSI at the Respondent's WWTF on April 15, 2002. Department staff rated the WWTF noncompliant as a result of violations of the permitted discharge limit for FC.
5. On April 30, 2002, the Department issued a Notice of Violation to the Respondent as a result of violations of the permitted discharge limits for  $\text{NH}_3\text{-N}$  and BOD during the February 1, 2002, through March 31, 2002, monitoring periods. In a letter dated May 15, 2002, the Respondent's agent replied to the NOV, stating that it had submitted a proposal to a regional sewer provider and was awaiting a response.
6. A review of DMRs submitted by the Respondent for the September 1, 2000, through December 31, 2002, monitoring period has revealed the following violations of the permitted discharge limits:

NH<sub>3</sub>-N - September, October, November and December 2000, January, February, March, April, May, June, July, September, October, November and December 2001, and February, March, April, May, June, July, August, October, November and December 2002;

BOD - September, October and November 2000, February, April, May, June July and November 2001, and February and March 2002;

DO - December 2000, January, July, September, October and November 2001, and July and September 2002;

FC - October and December 2000, August and December 2001, and April 2002;

pH - February and May 2002; and

TRC - September, October, November and December 2000, January, February, March, April, May, June, July, September, October, November and December 2001, and March, July and November 2002.

7. The Respondent is a public utility regulated by the South Carolina Public Service Commission (PSC).
8. PSC Regulation R.103-541 provides for PSC approval of all utility contracts including connection agreements by sewer systems with a regional provider.

### CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Department reaches the following Conclusions of Law:

1. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110 (d) (Supp. 2002), and Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-9.122.41(a)(1) (Supp. 2002), in that it failed to comply with the permitted discharge limits for NH<sub>3</sub>-N, BOD, DO, FC, pH and TRC as specified in Part I.A.1 of the NPDES permit.
2. The Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), provides for a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day of violation for any person violating the

Act or any rule, regulation, permit, permit condition, final determination, or Order of the Department.

NOW, THEREFORE, IT IS ORDERED, pursuant to the Pollution Control Act, S.C. Code Ann. 48-1-50 (1987) and § 48-1-100 (Supp. 2002), that the Respondent shall:

1. If, within thirty (30) days of the execution date of this Order, the Respondent receives a contract for sewer service from the City of Cayce, then within sixty (60) days submit to the PSC for approval a contract for sewer service with the City of Cayce, the regional sewer provider.
2. If the contract is approved by the PSC:
  - a) Within sixty (60) days of the PSC's final order, submit to the Department administratively complete plans and specifications and an application for a permit to construct addressing elimination of the discharge by connection to regional sewer, including a plan for closure of the WWTF in accordance with Water Pollution Control Permits, 25 S.C. Code Ann. Regs. 61-9.503 (Supp. 2002), Proper Closeout of Wastewater Treatment Facilities, S.C. Code Ann. Regs. 61-82 (1976), and Standards for Wastewater Facility Construction, S.C. Code Ann. Regs. 61-67 (Supp. 2002).
  - b) Within forty-five (45) days of the issuance of the permit to construct, begin construction on the connection to regional sewer.
  - c) Within one hundred twenty (120) days of beginning construction, complete construction of the connection to regional sewer and divert influent wastewater to the regional sewer system.
  - d) Within one hundred eighty (180) days of diverting the influent wastewater to the regional sewer system, close out the WWTF in accordance with the approved plan.

3. If the PSC denies the contract:

- a) Within sixty (60) days of the PSC's final order denying the contract, submit to the Department a preliminary engineering report (PER) addressing upgrade of the WWTF to meet the permitted discharge limits.
- b) Within sixty (60) days of the Department's approval of the PER, submit to the Department administratively complete plans and specifications and an application for a permit to construct addressing upgrade of the WWTF to meet permitted discharge limits.
- c) Within ninety (90) days of issuance of the permit to construct, begin construction of the permitted upgrade to the WWTF.
- d) Within two hundred ten (210) days of beginning construction, complete construction of the upgrade to the WWTF and request final operational approval from the Department.

4. Pay to the Department a civil penalty in the amount of twenty-one thousand dollars (\$21,000.00), payable in quarterly installments over a period of thirty (30) months, together with interest on the outstanding balance calculated at 8.75% per annum, with the first installment due on May 5, 2003. The Respondent may pay the penalty in full at any time.

**IT IS FURTHER ORDERED AND AGREED** that where the Department or the PSC has requested information in connection with the above actions, the Respondent shall respond to such requests in a timely fashion.

**THEREFORE IT IS FURTHER ORDERED** that if any event occurs which causes or may cause a delay in meeting any of the above scheduled dates for completion of any specified activity, the Respondent shall notify the Department in writing at least one (1) week before the scheduled date,

describing in detail the anticipated length of the delay, the precise cause or causes of delay, if ascertainable, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which those measures will be implemented.

The Department shall provide written notice as soon as practicable that a specified extension of time has been granted or that no extension has been granted. An extension shall be granted for any scheduled activity delayed by an event of *force majeure*, which shall mean any event arising from causes beyond the control of the Respondent that causes a delay in or prevents the performance of any of the conditions under this Order including, but not limited to: a) acts of God, fire, war, insurrection, civil disturbance, explosion; b) adverse weather condition that could not be reasonably anticipated causing unusual delay in transportation and/or field work activities; c) restraint by court order or order of public authority; d) inability to obtain, after exercise of reasonable diligence and timely submittal of all applicable applications, any necessary authorizations, approvals, permits, or licenses due to action or inaction of any governmental agency or authority; and e) delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence by the Respondent.

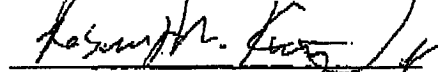
Events which are not *force majeure* include by example, but are not limited to, unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or any person's failure to exercise due diligence in obtaining governmental permits or fulfilling contractual duties. Such determination will be made in the sole discretion of the Department. Any extension shall be incorporated by reference as an enforceable part of this Order and thereafter be referred to as an attachment to the Order.

**PURSUANT TO THIS ORDER**, all communication regarding this Order and its requirements shall be addressed as follows:


Anastasia Hunter-Shaw  
Water Enforcement Division  
Bureau of Water  
SCDHEC  
2600 Bull Street  
Columbia, S.C. 29201

IT IS FURTHER ORDERED AND AGREED that failure to comply with any provisions of this Order shall be grounds for further enforcement action pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), to include the assessment of additional civil penalties.

THE SOUTH CAROLINA DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL CONTROL

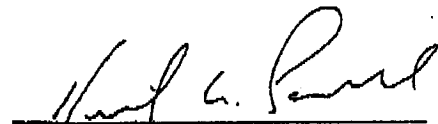
  
R. Lewis Shaw, P.E.  
Deputy Commissioner for EQC

DATE: 4/7/03


  
Alton C. Boozer, Chief  
Bureau of Water

DATE: 7 April, 2003

WE CONSENT

  
Midlands Utilities, Inc.

DATE: 4/4/03

  
Mason A. Summers  
Attorney for the Department

DATE: 4/4/03

DATE: \_\_\_\_\_



Valerie A. Betterton



Valerie A. Betterton, Director  
Water Enforcement Division

DATE: 4/7/03

### **Schedule 3.2**

#### **Consents and Approvals**



All approvals from the SCDHEC and the South Carolina Public Service Commission necessary to permit the transfer of the operation of the Transferred Systems.

	
Buyer	Seller

### **Schedule 3.3**

#### **Violations**



The approval of the governmental agencies listed on Schedule 3.2 hereof will be required in connection with the sale of the Transferred Systems.

Initials  
  
Buyer  
  
Seller

### Schedule 3.5

#### Encumbrances/Liabilities

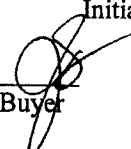

Lien documents affecting the Transferred Systems given by Seller to Branch Banking & Trust Company of South Carolina, which are to be released on or before the Closing Date.

	Initials	
Buyer		Seller

### **Schedule 3.6**

#### **List of Insurance Policies**



The parties agree that a complete list of Seller insurance policies shall be delivered by Seller to Buyer within ten (10) Business Days of the Effective Date of this Agreement.

	Initials
	
Buyer	Seller

### Schedule 3.7

#### Governmental Compliance Violations

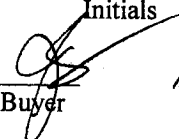

Consent Order 03-044W between Seller and SCDHEC which concerns violations arising from Seller's operation and maintenance of the wastewater treatment facility serving the Bellemeade Subdivision, a copy of which is attached as Schedule 2.4.

	Initials
	
Buyer	Seller

### Schedule 3.8

#### Litigation


1. The following state administrative actions involving the Transferred Systems are pending which are to be resolved or dismissed prior to Closing: Docket Number 2004-297(s) (Rate Case) filed with the South Carolina Public Service Commission will be finalized prior to Closing.
2. It is anticipated that in order to obtain the approval to the sale of the Transferred Systems as contemplated by this Agreement, it will be necessary that Seller file applications with state administrative agencies (including SCDHEC and PSC). These actions will be resolved or dismissed after approval and prior to Closing.
3. Items listed on Schedule 5.10.


Initials  
  
Buyer  
  
Seller

### **Schedule 3.9**

#### **Customer Lists**

The parties agree that a complete list of customer names, addresses, security deposits, and delinquencies shall be delivered by Seller to Buyer within ten (10) Business Days of the Effective Date of this Agreement.

  
Buyer


  
Seller




### **Schedule 3.10**

#### **Contracts**

The parties agree that a complete list of all contracts and service agreements, with copies of such items, shall be delivered by Seller to Buyer within ten (10) Business Days of the Effective Date of this Agreement.

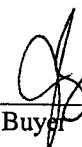
  
Buyer


  
Seller

**Schedule 3.11**

**Material Adverse Change**

NONE

  
Buyer

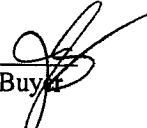

  
Seller

Initials

**Schedule 3.12**

**Sewerage System Map**

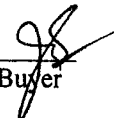

The parties acknowledge that the Map has been delivered under separate cover to Buyer.

Initials	
	
Buyer	Seller

## Schedule 5.10

### Existing Legal Actions To Be Dismissed

- (1) City of Cayce v. Midlands Utility, Inc (Matter in Arbitration before the American Arbitration Association), Arbitration No. 31-181-00066-01
- (2) City of Cayce and Lexington County School District 2 v. Midlands Utility, Inc. (pending in the Court of Common Pleas for the Eleventh Judicial Circuit), Civil Action No. 01-CP-32-0242
- (3) Midlands Utility, Inc. v. City of Cayce (pending or formerly pending in the Court of Common Pleas for the Eleventh Judicial Circuit), Civil Action No. 01-CP-32-3092
- (4) Midlands Utility, Inc. v. South Carolina Department of Natural Resources v. City of Cayce (pending in the Court of Common Pleas for the Eleventh Judicial Circuit), Civil Action No. 04-CP-32-0135
- (5) Midlands Utility, Inc. v. South Carolina National Guard Armory (pending in the Court of Common Pleas for the Eleventh Judicial Circuit), Civil Action No. 04-CP-32-0134

Initials	
	
Buyer	Seller